

Transcript

CHARTER AMENDMENTS Ad Hoc Committee

October 24, 2007

9:30 a.m.

Commissioners present: Chair David Lillard
Mike Ritz
Steve Mulroy
Mike Carpenter
Deidre Malone
Sidney Chism
Henri Brooks
George Flinn

Brian Kuhn, County Attorney
Christy Kinard, County Attorney

LILLARD: We are going to convene the meeting on Charter Amendments of the Shelby County Charter. Let the record reflect that Commissioner Malone is present, Commissioner Carpenter, Mulroy, David Lillard presiding, and our county attorney Brian Kuhn and assistant county attorney Christy Kinard, staff members Clay Perry, Floria Todd and Lynn Ford. And Commissioners Ritz and Chism are here. Come on over and join us, commissioner.

First of all, I'm sure each of you noticed on the ad hoc committee appointments that the chair simply appointed all commissioners to this committee because I think this is like the budget, or more important than the budget in terms of our organic basic document of government, the County Charter, so I'm sure we'll have the active participation at critical times of all of the commissioners of the commission. I have the staff copying three documents that the county attorney distributed to me, which was some discussion of proposed alternatives for the County Charter. The main thing I wanted to discuss this morning, this is simply a preliminary meeting this morning, is to discuss and obtain members' views and others' views going forward on the structure of our deliberations and ultimate decisions in regard to the County Charter. And in that respect I'll just start by saying that I hope every member agrees with me that after putting appropriate structure put to the matter that we would have what I refer to as robust public hearings in all areas of the county on this matter because it is, it's even more important than the Juvenile Court matter that we had extensive hearings on. And I think we need to do that. So, from that standpoint, and also the need is to gather members' views and views from the public about possible alternatives that they see in terms of amendments to the County Charter, and put them into some comprehensible order so that the public can comment on those. If we have public hearings right off the bat does not serve any purpose in my view because you need to have some structure to what you're considering as alternatives or just a list of possible issues, whatever it might be in that respect. In that regard I'm going to speak to the staff today with IT so we can set up a special link on the county website so the public can begin giving their input even before we get to public

hearings on this issue and maybe make suggestions about the alternatives that are under consideration or maybe even suggest their own alternatives. So we want to have, as I said, robust public input extended in every step of the proceedings.

Now a couple of preliminary things to go open the floor for members to comment on. Logistically, Clay Perry is going to be assigned as our senior staff member in regard to this committee and its deliberations and he will be in charge of dealing with all staff matters including arranging the public hearings, coordinating them, coordinating the various documents we'll have before us. I assume the county attorney is going to handle this matter, or is Ms. Kinard going to be our assigned person from your office, or have you considered who is going to be the point person from the county attorney's office?

KUHN: Both actually, we're both co-chairs, we'll both be working together.

LILLARD: Good. We'll have both Mr. Kuhn and Ms. Kinard assigned to us then from the county attorney's office and move forward on that basis. I also wanted members views in addition to anything else you want to comment on, as well as on the things you would like to see considered by the committee in regard to the county charter. I would also like your views on the mechanical aspects of this, i.e. there is not to my knowledge no nicely printed copy of the County Charter. Every one that I've ever seen seems to be a multiple copy of a copy from the copy machine.

KUHN: The county code books have it in the front of the code books, the black codes books. You can get it online at "municode.com" then go to Tennessee, Shelby County. It's the first part of the county code compilation of the charter.

LILLARD: Logistically, it seems to me and I mentioned this to David Grist, the director of the Print Shop day before yesterday when I saw him. I think you need to email to him a copy of the complete County Charter with amendments, and any history that you think is appropriate. There's a little history that goes with it about how it was adopted back in the 70's and all about the Charter Commission or something. We need to consider what we are going to print to distribute at our public hearings. We need to have a copy of the County Charter available even if it's just run off on the copy machine, but it needs to be nicely typeset anyway. Further we need to figure out what else we're going to give out to the public. We have numerous memoranda from the county attorney about what has happened in the Knox County case. I've been considering whether we should put a lot of that on the website on our special link, so if we don't give it out at least we can say in the meetings look there's all this history and advice from the county attorney on our website that you can review. I guess there's really no limit to what we can put on there but if there are particular concerns members want addressed in that regard, we can put it on the link.

So, I am going to open the floor for general comments on any issue regarding this. After we get done talking to commissioners, I will also recognize the sheriff, the administration for any comments. We did not have a lot of notice for this meeting but we are going to provide public notice, more robust public notice of future meetings. This is not any kind

of terminal thing in regard to our procedure. It is just a preliminary discussion. I believe Commissioner Ritz was first, then Commissioner Malone, then Commissioner Mulroy.

RITZ: In keeping with your theme and trying to stay global for a moment, at one of our meetings like this, I think it may have been our last meeting like this with the predecessor of this particular committee, I suggested that, we had just potentially had the situation where we might have had to go thru the replacement of the county mayor; there were circumstances which might have put us in that mode, and upon reviewing the charter myself, it seemed to me that we ought to probably look at that issue. I think we ought to have that in on our charter amendments thing, something about how we would replace the county mayor under any circumstances that might require, including his resignation. The other point sort of in a global mode was I remain totally convinced that we are not prepared for a disaster, in any way, shape or form. With respect to the charter I would like to suggest that we look at the charter with respect to what might need to be in there to allow county government to continue to operate, when in fact there may not be a majority of commissioners alive or available. And the mayor may not be here either. In other words, how does the commission work, how do we meet, what notices, can a small group meet and do the business of the county until the appointments or elections are held, or whatever it's going to take, so we have in place a method for county government to continue to operate. If the disaster means the governor has to declare a disaster, then that might be part of the equation. Just a fire in this building follows the category of a disaster, but I think we all know what we're talking about, we're probably talking about an earthquake. So, I would like to suggest that we ask the county attorney at this time, to prepare a draft of charter amendments for our consideration with respect to a disaster plan and for mayor replacement, in a global sense of what you're talking about.

LILLARD: Now, your comments raise one thing and that is that the county attorney can confirm this, but obviously we are not limited to just dealing with the Knox County court case here. That's the point you're making isn't it?

RITZ: I don't think we ought to go down the path of just opening up every page, but things that have clearly come to our attention just in the 14 months that this commission has been in business that we probably ought to take a look at.

MALONE: I want to ask a question based on Commissioner Ritz's comment. What does the charter say now? If the mayor is incapacitated? At this point the CEO steps in and is the interim mayor, then there is a certain time period that we have to have an election right?

KUHN: Right. In Article 3 Section 3.05 the vacancy occurs in the county mayor's office by death, resignation, removal or disability, or otherwise. The vacancy shall be filled by the Chief Administrative Officer until the next countywide election, provided the next countywide election following the vacancy be scheduled less than 45 and no more than 90 days after the date of the vacancy. Then to be held no more than 90 days after the vacancy occurs. The commission has to call a Special Election if there's not one already scheduled. The person elected by Special Election, should take the office by

certification ***. If the CAO is unable to serve, the Chairman of the Board of Commissioners shall serve as Acting Mayor until the new mayor takes office. We have a 3-tier succession. After that we have no one.

MALONE: So Commissioner Ritz, to your point, what do we need to do as part of this process? What are you recommending we do as part of this process?

RITZ: Well it seems to me that the circumstances for the mayor do not permit a very careful, a very good opportunity for people to figure out whether they wanted to run for county mayor, to campaign for county mayor. It seems like it's so short. I mean we're sitting here is the county mayor going to run, is he going to resign? We could have ended up, depending on when he was going to resign, trying to run a campaign during Thanksgiving, Christmas, whatever. I just think we need to have something in place that permits the political process to get us the best mayor. Right now we have a Primary and that does not provide for a Primary. I'm not saying we need a Primary. I just think we oughta get it up and talk about it so we understand if we lose our mayor ... that's all ...

MALONE: I just appreciate your comments. I just wanted to get a better understanding of where you're going. The only other comments I had were that in our initial discussions we had talked about as part of our ad hoc committee process having a few civilians serve. Initially when I was chair of this committee, the sheriff so kindly sent me the names of people he wanted us to consider to serve on the ad hoc committee, and I just wanted to remind my commissioners of that.

Another point that I wanted to make is that I think it's a great idea for us to do the Town Hall Meeting process because the more input that we have from citizens, the more that we get out there and engage them in this process, my hope is when we get to the point where there is a Referendum people will understand what we are trying to do. So I think that is a wonderful idea. I did ask the question one other time, county attorney. We can only deal with these particular positions that are in front of us. We cannot move into dealing with whether or not the clerk should be elected or appointed, right?

KUHN: Correct. You cannot touch the court clerks. They are in a different section and article in the constitution and were not affected by the court case.

MALONE: But to my point, just because they weren't affected by the court case, my question is, if we were to, do we have the authority to look at that?

KUHN: No.

MALONE: Ok. Thank you. Ok.

LILLARD: Let the record reflect that Commissioner George Flinn has arrived, Starbucks in hand.

FLINN: Is that product placement? Ha.

LILLARD: Before Commissioner Mulroy speaks let me add one thing to Commissioner Malone's remarks. You mentioned citizen participation on the ad hoc committee, and the chair considered this, and I'd like views from the members on this. I've thought about that a lot. This is different from your normal ad hoc committee because this committee is actually dealing with the Charter and with trying to arrive at some consensus of use among members of what they are willing to vote for and what they are not willing to vote for in terms of the amendment of the charter. We know this requires at least 9 aye votes in order to be proposed to the voters, so in that regard I felt the inclusion of citizens on the committee, and in light of the fact that we're going to have robust public hearings and entertain all kinds of input from any citizen who wants to speak on the matter, or public official who is going to be affected by it, that it might be better not to have other members other than commissioners on this committee. As your chair, I'm open to any other suggestion that is appropriate in that regard. If you want to include others on the committee, then we'll consider that. So I'd like comments from members about that, and I'll ask Commissioner Malone if she has any thoughts before we go to Commissioner Mulroy.

MALONE: I don't really have an opinion about it one way or the other. I just thought it would be a great idea for a few citizens to serve on the ad hoc committee, and then one other person who was mentioned because of his knowledge of the Charter was John Ryder, Attorney John Ryder. The county attorney and I discussed it and John has a wealth of information.

KUHN: He does. He was on the Charter Commission and he would be available for any meetings. He worked on the brief on the *** and he would be available.

LILLARD: In the case of John Ryder, you are right, that was mentioned before. John is an assistant county attorney part time. He is available to us. If we request it, I'm sure the county attorney would make him available at every meeting as staff member, so that's a good thought Commissioner Malone. Commissioner Mulroy is recognized.

MULROY: Thank you, Mr. Chairman. Sort of a grab bag of different points as I've been listening to discussion. Trying to keep it global as Commissioner Ritz said, and focusing on procedure and not getting into the details too much of the specific details of various constitutional officers. First of all, in light of what you just said Mr. Chairman, when Commissioner Malone first mentioned citizen members being on the committee I thought was a good idea. But after hearing your comments I think I now agree with you that keeping it to commissioners was probably sensible. We can have Mr. Ryder or other county attorneys acknowledged and sit in over there as staff of the county attorney's office, but what you said I think is probably the appropriate the way to go.

With respect to what issues we're going to be taking up, it seems to me that there's a sort of a hierarchy. First of all, we clearly have to deal with the Knox County issue. So anything related to that is fair game. Then there might be certain clean up type issues. It might be that after we look at the County Charter we see certain technical problems and

we realize in 2007 that no longer applies, or it's inconsistent, or it has some other type of legal problem or lack of clarity and it might be necessary to do certain type of clean up things. I know the Memphis City Charter Commission is proceeding along those lines. They have staff working on a set of what they are calling "clean up issues", which are sort of technical and clarifying in nature. So no problem there. Once we move beyond that to other issues, including the issues about mayoral succession, and how the government can function in an emergency and other things of that nature. It seems to me that once we get there it's hard to distinguish between issues of that nature that we think are truly important and other issues. We don't want to go down the list page by page and just start adding many, many different issues for consideration. I hear that and I understand it, but I don't think there's any way to avoid that. Once we cross the threshold of saying, we're not just going to deal with Knox County, and we're not just going to deal with technical cleanup, and we're going to look at other things to, then I think anything that a number of commissioners considers to be an important issue and a real reform of the charter, is really a discussion. And that's not necessarily a bad thing. Because when I first started attending these meetings I thought ok we're going to keep it narrow, we're going to just look at the Knox County case and how to fix it. But upon reflection as I listen to different commissioners talk, this is an opportunity that does not come along very often. It's many decades that pass in between charter amendments, so if we're going to do it, maybe we should look at things. And if there is an issue a number of commissioners considers an important reform, it doesn't have to be just succession of the government in emergency situations. Then I think we ought to be willing to consider that, too. Procedural things – if you'll recall the last committee meeting there was some discussion, and I think there was some consensus reached that after we have some Town Hall meetings, we would deal with it, the Knox County part of it constitutional office by constitutional office. So that we would have a meeting to discuss what we wanted to do with the Sheriff, then one on the Trustee, then one on the Assessor, Register, County Clerk. And I believe we'd also ask the county attorney's office to come up with draft Charter amendments that would deal with each of these offices in 3 alternate ways.

LILLARD: Will you check to see where our copies are. They are having a kickoff today for the document systems. I'm sorry to interrupt you but they are working on the copies.

9:56:20

MULROY: That's ok. That's good, that's already in the works. So once we finish with the Town Hall meetings, what I envision and would recommend is that we have a series of committee meetings where we would deal with one office at a time and we would consider those three proposals and any modifications thereto, and vote on them one by one. At the Town Hall meetings it strikes me that one sensible thing might be to have one in each district and notify all commissioners about all of them, and to the extent possible try to schedule in such a way that all commissioners and all constitutional officers for that matter would be able to schedule and attend. Not all of them will be able to attend. But inevitably not all of us will be able to attend all of them. But at a minimum we could make a special effort to ensure that all of the district 4 commissioners would be able to

attend the meeting in district 4 and etc. Then you mentioned what kind of information should be made available to the public. I think your idea about placing those documents on the website makes sense. And what else might make sense is to have an FAQ document, Frequently Asked Questions, in question and answer format written without legal ease and technicality in a very layman's level – what are the options, what are the pros and cons, and have that available both in electronic form and also hard copy for handout at each of these Town Hall meetings. Those are my suggestions.

LILLARD: Commissioner Mulroy, can we engage in a little Mulroy colloquy about that and try to get to some other points, and you make some really good points. I just had a question in regard to the series of meetings you were thinking about, and based on the prior meetings of this committee where we take one office at a time. If we had public hearings then would we have a situation where, I'm trying to figure out how that relates to public hearings, because considering the Sheriff's office if that's number one for instance, then we don't want to have a situation where we have a round on the Sheriff, then a round on the County Clerk.

MULROY: I think that's a valid point. I think it would be overkill to have one meeting about the sheriff in each of the 5 districts, which is a total of 25 meetings which I think is excessive. It seems to me that we can when we have the Town Hall meetings we can tell the public that we are going to be considering each office by itself and try to guide the discussion in such a way that the input from the public they know they are allowed to pick and choose. The public input may be to elect them all, or appoint them all, or the public input may be to treat some different from others; but just as long as we guide each meeting in such a way the public is on notice that we are going to be considering them one by one, I think we'll get the input we need.

LILLARD: We'll work on that. I think those were some good suggestions. One more thing on the Mulroy thing in regard to your remarks is you were suggesting one public meeting per district and everything, and that might work like in district 5, where it's a compact thing with about 22 or 23 precincts, you know. But in my district, district 4 it's almost 60 precincts and it covers from the Mississippi line by Collierville all the way around to the Mississippi River on the other side of Millington. So I personally was envisioning more public hearings than one per district. Commission districts 1, 2, and 3 have huge areas that they cover, they are more compact than mine is but the population density is higher, but still it's a big area, so I would suggest that we have more public hearings.

I know Commissioner Malone had remarks, then to Commissioner Carpenter.

MALONE: I 'm fine.

CARPENTER: I guess to drill down a bit more from where Commissioner Mulroy left off, what I personally envisioned, well we've heard from the constitutional officers at various points. I'd like for us to have some information prior to the public hearing about each individual office, public testimony, submit it in writing. It's not so much what they

do but particularly about why they think they should be elected vs. appointed, or *** vs. elected, what the pros and cons are. Lou had started some research for me and then we got distracted on other things, looking at what other communities do in relation to these offices, and I'd like to have that information prior to public hearings because I think it's important to have that so we know what the options are when we go into the public hearing. We know what the options are structurally what we could do. But what has worked in other areas, what has not worked in other areas, and I know that our research started, maybe through NACO we got a list of some of those offices, which ones are appointed, which are elected, if constitutional or not, so that we can see what models are out there. I think that's important because I suspect if we had public hearing today 90% of the people who attended would say "it's my right to vote, I think we should elect them all" without any real thought about the process. And so I wanted to be prepared to have a real dialog with the public about this, so that is the first thing I would suggest.

The second thing I think has been talked about before and that is about how we take those. I don't have a preference other than when we take up the sheriff it needs to be after the December 12th meeting of the Law Enforcement Task Force because then we'll have a recommendation from that task force one way or the other, and we'll be able to meld that into the mix and have that conversation about it. And it may not be an issue. We may be finished with our work by the time we get into the individual offices and make a recommendation. But if it is, then I'd say let's wait until the task force is finished before we deal with these issues.

LILLARD: Thank you, Commissioner Carpenter. Commissioner Brooks?

BROOKS: Thank you, Mr. Chairman, and I think that our records may reflect that I believe I suggested at our last meeting, that we should have for our public hearings maybe a one-pager with bullet points describing the duties and responsibilities of each one of these elected officers. Just so the public will have it in their hands to remind them of what these officials are responsible for. I think that would be very helpful.

LILLARD: Thank you, commissioner. Any other comments by commissioners? Let me go at this point to the recognition of the people that are here today. And I want to make one brief comment. Again, the chair viewed this to be a very preliminary meeting here to get started and everything. I didn't provide any special offices to even officers affected, I assume the sheriff knew about it because they monitor our website and whatever, but I did not provide special notice to the Trustee or County Clerk or anybody else. However after this meeting today we're going to talk about this, and I have a list of points here that I'm going to put in a letter that is going to be issued to every public official in Shelby County, not just the ones who are affected, but the mayors of the cities, the councilmen and all that sort of thing and let them know we're here, let them know the issues we're seeking input on in terms of our structure going forward. They may have comments on the structure themselves. And ask them to reply to me and I'll distribute to everybody about that so that we can in the end tack down our structure going forward. I just want to make that clear. I am not going to cut anyone out of the process. We're going to have everybody in the process. I felt an obligation to have a meeting with my co-

members of the commission today to get general direction from you before we launch it all in a letter to everybody. So, that's what we're about.

Sheriff, Mr. Kennedy did you have any comments?

LUTTRELL: First of all as I listen to you all deliberate I reflect back to about three weeks ago I was up in Knoxville the day when the decision came out and the Knoxville Sentinel was just full of history on how to handle Knox County, and I really want to complement you all on how you're handling this. That's really complementary. A couple of observations - Commissioner Carpenter, one thing you mentioned, there aren't really going to be any examples really of what other counties are doing with this issue because all other counties are constitutional officers who are established the same way and really there is not best practice for us to follow in Tennessee.

CARPENTER: I was talking about out of state, sheriff. Getting some out of state models.

LUTTRELL: I guess the only real observation I have is that all of us in this room today, commissioners, elected officials, are all students of this process and know the charter better than the average citizen. As we go into these robust town hall meetings, let's be careful not to overwhelm the public with data and details. I think we can make a very relevant point and make it user friendly. There's a lot of minutia in the County Charter that I think if you try to cover all of that in town hall meetings you'll see attendance drop off very quickly. I would just caution you to be very careful how you structure the town hall meetings so you capture the attention of the attendees and it's something that they can certainly comprehend and relate to. But as far as the process you are following, I just applaud you on how well you're handling it as opposed to what I've seen up in Knox County recently.

LILLARD: The sheriff raised the issue about Knox County and I do want to comment on that. My capacity, formal capacity until the first of October as TCCA President, I've been intimately involved in Knox County's thing, I've talked with just about all their commissioners on the phone extensively about their situation. Chairman Scott Moore on their commission and I know each other extremely well, and we've tried to help them, the state wide organization has over there. And in that regard, I just want to remind everyone let us be sure we have strict compliance with the open meetings law in regard to the proceedings of this committee, because that whole thing in Knox County has just been painful beyond belief, you know, to deal with. And it's really something as the chair indicates that we don't want to get into here.

Commissioner Carpenter and then Commissioner Brooks.

CARPENTER: I just want to clarify – I may have mis-spoken about the sheriff's point. I was referring to other states, other counties, other municipalities and as an example we in our law enforcement consolidation discussion we have seen one county, Miami Dade where the sheriff is a law enforcement officer appointed. We have seen in

Charlotte *** where there is an elected sheriff who handles the jail, court's process server, but an appointed Police Director. A lot of models in relation to that. Of course Las Vegas, Nevada an elected sheriff but a consolidated police force. So there are different models also in the spread sheet Lou pulled for me. There were some communities outside Tennessee obviously where the Assessor was handled differently. I remember Assessor Clark raising the issue of the independence of the Assessor and the importance of that. So I wanted to know some communities who have appointed Assessors vs. an elected Assessor, for example, and what conflicts they've run into. How is tax collection handled in other communities? Is it a countywide finance director, or is there a separate Trustee or tax collector that does that, just so we know what other models are working out there. It may be in some of these offices the Trustee is always elected, or the Assessor is always elected and that there is no good model out there for an appointed Trustee or Assessor or Clerk, and that will help us learn what other communities have done or have not done as to which direction we want to go with some of these.

LILLARD: Thank you, commissioner. Commissioner Brooks is recognized.

BROOKS: Thank you, Mr. Chairman. Just two points I want to make in response to your comment about the citizen member. While I agree you don't want to, I do believe that we can benefit from some expertise from individuals involved in the Home Rule Charter Commission and I hope that we would not rule out former commissioner Walter Bailey as one of our citizen members of this commission. I would strongly like to recommend that for consideration by this body.

10:10:28

Secondly, to the sheriff's points regarding public hearings. I think those are really important and I am an aggressive advocate for public participation and input in this process. This is historical and we won't get this chance down the road, not too soon. So, regarding those public meetings, if we can make sure they aren't overloaded with data, but maybe a one or two page bullet on the most important things, what the responsibilities of these elected officials are, and also the publication of all the meetings far enough in advance. If we can put all the meetings together, decide the dates and locations and times, and get those all out there I bet we could maximize our participation. We could probably do it before the 10 day period. We don't necessarily have to wait but that's probably the max. We can do it 15 days in advance and then also instruct staff to do it more than once to ensure that the public has this knowledge and we're going to get a maximum participation. I just think if we put more emphasis on that. The public is so busy with survival issues and they have not internalized the fact that this is an important issue and that it's going to impact their quality of life. But they need to hear it more times than one.

LILLARD: Mr. County Attorney. While you've got the floor let me add a couple of things for you to comment on, and let me remind our members and chair what our election date will be to amend the Charter. What election can be on the ballot according to current state law? What would be our timeline? When would we have to have a

proposal voted out by the commission, backing up from that date to get the Election Commission to put it on the ballot. County Attorney, you are recognized.

KUHN: First comment on getting the word out to the public, a couple of years ago WKNO had a series where they actually did a public broadcast on the charter and how it was created and had myself, John Ryder, Herman Morris who were on the Charter Commission participated in that. So you might want to check through our various cable accesses and might get out to a broad audience that way, too.

Now as far as the election results I believe we got back from our state election coordinator the opinion that it could not go on the Presidential Primary so we are limited to the August 2008 election, is the first time it could go on. We're trying to get a back up point from that point of time. We haven't talked to Mr. Johnson about how many days he needs to prepare his military ballots and mail-outs, and all the things that have to go out. But I suspect it will be sometime in May. Sometime in April or May will be a good guesstimate right now. We'll get you an exact date. It has to be an ordinance and it has to have three readings. You don't have to go every two weeks. You could have a minimum of 7-10 days between first and third readings, so you could have a rapid 3 meeting process if you wanted to. So you don't have to necessarily think in terms of 6 weeks, but in about 3 weeks. So those types of things we'll get back to you. But I'm thinking right now as a guesstimate would be April or May.

LILLARD: I think you're right. Military ballots usually go out 60 days before the election.

MULROY: August.

KUHN: Another thing. The old Charter Commission, when they did their work, they were very cognizant of the fact that they wanted to eliminate as many controversial political clashes as possible in the wording of the Charter. That's why they structured it after the Restructure Act and kept the same structure form of government with the mayor and county commission, because they wanted it to pass. I've made the comment before, depending on what you do, because if it doesn't pass in August then you're right back where you started from and you don't have it fixed. ***.

MULROY: Following up on that last point by Mr. Kuhn, first of all the time back from the election would be around the same. So if we didn't make it for the August election and going for the November election it would be around 3 months before so we're talking about an August 2008 deadline to get on the November 2008 ballot. Is that right?

KUHN: I don't know if we've asked about the November ballot. It says the county general election, and I don't know right now if the November election is counted as a general election that is countywide. But the Attorney General wouldn't pass *** the countywide election as August every two years.

LILLARD: We need to talk to the coordinator of elections on that.

CARPENTER: On that point, so its, I'm confused - where does it say it has to be in a county election – in the state law, in the charter, where is it?

KUHN: It's in the state law I believe and in the Charter both. I know it's in the state law. And the state law on Referendums and state law on Charters specifically says the General Election.

MULROY: County General Election.

KUHN: I believe.

MULROY: Which could mean county wide General Election including November or it could mean only the county election offices in August?

KUHN: Right. Because in the past that was the ***. The county general election meant the August election every two years. It didn't mean the county wide election for any other purposes. It would be the August election every 2 years. We have to be careful and we'll get an opinion.

CARPENTER: So considering that potential dilemma to our legislative chair and to you, then maybe we need some additional legislation this year to allow for November in the very narrow event it doesn't pass and we're in this situation.

KUHN: That probably wouldn't hurt at all.

MULROY: The last point you made was to be wary of putting controversial poison pills in because that might defeat the whole thing and you might have to start from scratch. My question is if we see any potential poison pills but we still want to move forward with them and hope that they pass, can't this body simply direct that they be listed as a separate referendum item? So that the structural stuff that has to be done because it is Knox County can be one charter amendment on the ballot as proposition 1. Then proposition 2 can be the mayoral succession thing and it's a separate deal. And if people don't like the mayoral succession thing, since it's a separate thing on the ballot, just because that fails doesn't mean that we never accomplished anything on Knox County. We can structure that any way we want that, right?

KUHN: I think so. We looked into the problem within the initial question of how to structure officers and Commissioner Ritz had asked one time can you put choices on the ballot and we had a problem and you could not do that. I'm pretty sure you can put separate issues with separate questions. But quite frankly probably most of your poison pills will be in the what to do about constitutional officers. That may be your issue there.

CHISM: I think we ought to be very careful about giving the public so much information that they cannot absolve what we're trying to do. As far as public

involvement is concerned, you're going to have a lot because you are talking about moving from elected positions to appointed positions. I think you're going to have a problem with that aspect of the Charter. That Charter has been in effect for how long, counselor?

KUHN: Since 1986. It was voted on in 1984 and went into effect in 1986.

CHISM: And to attempt to amend the Charter in every aspect I think we'll be traveling down dangerous roads, however I can assure you the public will be fully aware and fully enthused and energized to vote on these positions moving from elected to appointed positions. So that won't be a problem but I'm not looking forward to getting into this Charter and trying to put us in the position where we change this Charter AS it's written because it was adopted as ***.

10:21:41

RITZ: Back to the question we were on with Commissioner Mulroy, Mr. Kuhn would it be possible as a follow up to that to with respect to the sheriff who would be number 1, with respect to the trustee who would be number 2; so that if 3 of the 5 pass, we'd only have to fiddle with 2 more in November. They don't have to be treated the same. I don't suspect frankly they will be. Should we be able to let the voters decide if they think we made the right choice on each one. Can we do that?

KUHN: I understand your question I think, and that is if we have a vote on the sheriff, and if it passes or doesn't pass, a vote on the Trustee, and if it passes. If one of them passes then that takes care of that one. But the ones that don't pass we're in never never land.

LILLARD: You're not doing alternative amendments, you're just doing separate amendments.

KUHN: I think that can probably be done. I'll check so we'll be sure. The legal question is if you don't fix all there's a one for all and all for one type thing. But I'll check on that.

RITZ: Thank you.

BROOKS: I wanted to back what Commissioner Chism said about the public. I'm not so sure the public is really paying a whole lot of attention to this, and will, unless they understand what we are doing, what this means to them, what exactly are we talking about when we talk about a Charter Restructure. I think we have to get this delivered to the public in such a way that they can actually get their arms around it and what this means to them. The public will probably say "well we didn't understand, why didn't you all explain that to us?" So the other thing I wanted to mention. There was one other point I wanted to make in reference to listing those, whether or not we can put each, I think it would serve the public's interest better if we were able to list each item separately. I'm not sure what the law says about that, but I think that the public will be less confused. I know

when you have those long amendments and have those questions, in listening to the voters when they are leaving, they'll admit they skipped it saying "I didn't want to read all that." Probably get more response from the public in a convoluted paragraph.

LILLARD: I want to make one comment to the county attorney. As a former election commissioner I just want to warn you that on these matters whether the amendments can be stated separately on the ballot, and the election dates, and all that sort of thing. I have great faith in your opinions, but you need to get written opinions from the election coordinator on all that. Because the coordinator by state law approves the ballot face. Our election commission can propose a ballot face but it can't go on the ballot unless the coordinator has not approved that. Because I have had situations as an election commissioner where we thought it should be this way, and we sent up to the coordinator and he said no you can't do that. Unless you got a written opinion from him previously, you are stuck at that point in time.

KUHN: I agree. That's what we've been doing is actually formulating these questions to the election coordinator.

LILLARD: Not an oral opinion. Get a written opinion back, not an oral opinion. Because I've had a situation where I believe they changed. On a major matter when we had this huge ballot in Shelby County where we had so many judges running in August one time when I was an election commissioner and it got really bad there for a while because we thought we understood what he wanted done and I guess there was a misunderstanding, but I like to see it in writing on all these issues.

Let's wrap it up by saying I'm going to send a letter hopefully today to all elected officials in Shelby County, down to the councilman, alderman, mayors, especially of course the affected officials advising this committee is active again. I want to talk about the scheduling now of our next meeting. I want to invite their input on the issues to be addressed. Specifically about the alternative treatment of public officials that will be directly affected, the officers that were subject of the Knox County case. Do they have any input on those issues. I'd like to have their input about public hearings, i.e. how many they think we ought to have, where they think they ought to be, what time of day, the structure of the public hearings – do they think we should open the floor and hear from everybody? Should there be a time limit? I'd like to solicit their input on all these things and also their input on the documents we should make available for the public. They may come up with some good ideas we haven't thought of. We've had many ideas at the meeting here today. I would also like to solicit express thoughts of my colleagues on this commission and these public officials on how we should provide notice of public meetings/committee meetings going forward. On the one hand this may be so important that our public hearing schedule should be published in the Commercial Appeal. The Election Commission takes out special ads all the time, required by state law, to advertise an election, to tell people what is on the ballot and that sort of thing. I know that in early voting in 1994 the Election Commission voted and this county commission approved expenditures to have some public service spots run about early voting because it was viewed as that important. It has been very helpful in the election process to educate

people about that opportunity. Is this such a situation? I don't know. But I don't want a situation after we've gotten through half the work or all the way through the work and a section of the public says they were not informed. This is just that important to me that we need to make sure we've done everything we reasonably can to make sure the public notice of not only our meetings, but what we are considering. I'd also like to solicit comments from the officials we send this letter to whether we should bring in any outside experts to testify from other jurisdictions, similarly to what the law enforcement committee is doing in their proceedings. Are there any other comments from those present about those aspects of things, about what we ask the public officials to comment on.

Lastly I'd ask Ms. Gates if she has any comments on behalf of the Trustee at this point.

GATES: I don't. Thank you for asking.

LILLARD: Anybody else? Administration? Mr. Huntzicker? Any comments? Do we have anything else to consider other than the date we meet next? I would assume we could meet the next ad hoc committee day, two weeks hence, or we could work on a more advanced schedule and meet on a special day if that's the will of this committee. That's up to the committee.

MULROY: Just quickly, let's start with the assumption that we'll be meeting on the regular ad hoc committee days, especially right now while we are gathering information. We may need to pick up the pace later on, but right now I think that should be our default.

LILLARD: Ok. Just one other thing I'd like members to think on, we're about to get into the Christmas season and the holiday season and I don't know I would assume we would plan to begin our public hearings after the first of the year, a tentative matter. If anyone has any comments on that. That's kind of what I'm looking at in that regard.

Anything further from the committee members on anything? Ok if seeing none, the ad hoc committee on Chart Amendments stands adjourned.

End
10:31 a.m.